

recipients and other sources of payment to which recipients may be legally entitled, such as private insurance or medicare, were first fully utilized.

(3) Costs applicable to services, facilities, and supplies furnished to the provider by related organizations are allowable but at the cost to the related organization, provided they do not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

(4) Beginning January 1, 1985, the payment for property usage is to be independent of ownership structure and financing arrangements.

(5) Beginning July 1, 1995, allowable costs shall not include costs reported by a nursing care provider for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the nursing facility in the period to be covered by the rate.

Sec. 97. RCW 74.46.410 and 1993 sp.s. c 13 s 6 are each amended to read as follows:

(1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in care services established by the department under this chapter;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290 on and after January 1, 1985;

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the cost-related reimbursement system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable if the debt is related to covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish that reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established that there was no likelihood of recovery at any time in the future;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of key-man insurance and other insurance or retirement plans not made available to all employees;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses of maintaining professional licenses or membership in professional organizations;

(bb) Costs related to agreements not to compete;

(cc) Amortization of goodwill;

(dd) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ee) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;

(ff) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) All rental or lease costs other than those provided in RCW 74.46.300 on and after January 1, 1985;

(ii) Postsurvey charges incurred by the facility as a result of subsequent inspections under RCW 18.51.050 which occur beyond the first postsurvey visit during the certification survey calendar year;

(jj) Compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period;

(kk) For all partial or whole rate periods after July 17, 1984, costs of land and depreciable assets that cannot be reimbursed under the Deficit Reduction Act of 1984 and implementing state statutory and regulatory provisions;

(ll) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate.

NEW SECTION. Sec. 98. A new section is added to chapter 74.46 RCW to read as follows:

The legislature intends to adopt a new system for establishing nursing home payment rates no later than July 1, 1998. Any payments to nursing homes for services provided after June 30, 1998, shall be based on the new system. The system shall include case-mix reimbursement methods for paying for nursing services and shall match payments to patient care needs, while providing incentives for cost control and efficiency. To that end:

(1) In consultation with nursing facility provider associations, consumer groups, and the legislative budget committee, the department of social and health services shall design and develop alternative methods for matching nursing facility payments to patient care needs, while providing incentives for cost control and efficiency.

(2) The department shall report to the fiscal and health care policy committees of the legislature on the projected benefits and costs of these alternative methods by October 15th of 1995, 1996, and 1997. The October 1996 report shall additionally include a recommended time line for implementing the new payment system no later than July 1, 1998.

(3) The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1998:

(a) RCW 74.46.420 and 1993 sp.s. c 13 s 7, 1985 c 361 s 18, 1983 1st ex.s. c 67 s 18, & 1980 c 177 s 42;

(b) RCW 74.46.430 and 1993 sp.s. c 13 s 8, 1987 2nd ex.s. c 1 s 2, 1987 c 476 s 2, 1983 1st ex.s. c 67 s 19, & 1980 c 177 s 43;

(c) RCW 74.46.440 and 1989 c 372 s 16 & 1980 c 177 s 44;

(d) RCW 74.46.450 and 1993 sp.s. c 13 s 9, 1983 1st ex.s. c 67 s 20, & 1980 c 177 s 45;

- (e) RCW 74.46.460 and 1993 sp.s. c 13 s 10, 1987 c 476 s 3, 1985 c 361 s 15, 1983 1st ex.s. c 67 s 21, 1981 1st ex.s. c 2 s 5, & 1980 c 177 s 46;
- (f) RCW 74.46.465 and 1987 c 476 s 8;
- (g) RCW 74.46.470 and 1993 sp.s. c 13 s 11, 1987 c 476 s 4, 1983 1st ex.s. c 67 s 22, & 1980 c 177 s 47;
- (h) RCW 74.46.481 and 1993 sp.s. c 13 s 12, 1991 sp.s. c 8 s 16, 1990 c 207 s 1, 1987 c 476 s 5, & 1983 1st ex.s. c 67 s 24;
- (i) RCW 74.46.490 and 1993 sp.s. c 13 s 13, 1983 1st ex.s. c 67 s 25, 1981 1st ex.s. c 2 s 6, & 1980 c 177 s 49;
- (j) RCW 74.46.500 and 1993 sp.s. c 13 s 14, 1992 c 182 s 1, & 1980 c 177 s 50;
- (k) RCW 74.46.505 and 1993 sp.s. c 13 s 15;
- (l) RCW 74.46.510 and 1993 sp.s. c 13 s 16 & 1980 c 177 s 51;
- (m) RCW 74.46.530 and 1993 sp.s. c 13 s 17, 1991 sp.s. c 8 s 17, 1985 c 361 s 17, 1983 1st ex.s. c 67 s 28, 1981 1st ex.s. c 2 s 7, & 1980 c 177 s 53;
- (n) RCW 74.46.540 and 1980 c 177 s 54;
- (o) RCW 74.46.550 and 1983 1st ex.s. c 67 s 29 & 1980 c 177 s 55;
- (p) RCW 74.46.560 and 1983 1st ex.s. c 67 s 30 & 1980 c 177 s 56;
- (q) RCW 74.46.570 and 1983 1st ex.s. c 67 s 31 & 1980 c 177 s 57;
- (r) RCW 74.46.580 and 1983 1st ex.s. c 67 s 32 & 1980 c 177 s 58;
- and
- (s) RCW 74.46.590 and 1980 c 177 s 59.

Sec. 99. RCW 74.46.420 and 1993 sp.s. c 13 s 7 are each amended to read as follows:

The following principles are inherent in RCW 74.46.430 through 74.46.590:

(1) ~~((Reimbursement))~~ Effective July 1, 1995, through June 30, 1998, nursing facility payment rates will be set or adjusted for economic trends and conditions annually and prospectively on a per ((patient)) resident day basis ((on a two-year cycle corresponding to each state biennium; and)) in accordance with the principles and methods set forth in this chapter, to take effect July 1st of each year.

(2) ~~((The rates, in the nursing services, food, administrative, and operational cost centers, shall be adjusted downward or upward when set effective July 1 of the first fiscal year of the two-year rate setting~~

1 ~~cycle and adjusted again downward or upward effective July 1 of the~~  
 2 ~~second fiscal year of the rate setting cycle for economic trends and~~  
 3 ~~conditions)) July 1, 1995, component rates in the nursing services,~~  
 4 ~~food, administrative, and operational cost centers shall be cost-~~  
 5 ~~rebased utilizing desk-reviewed and adjusted costs reported for~~  
 6 ~~calendar year 1994, for all nursing facilities submitting at least six~~  
 7 ~~months of cost data. Such component rates for July 1, 1995, shall also~~  
 8 ~~be adjusted downward or upward for economic trends and conditions as~~  
 9 ~~provided in this section. Component rates in property and return on~~  
 10 ~~investment (ROI) shall be reset annually as provided in this chapter.~~

11 (3) ~~The July 1, 1995, component rates ((for the first year of each~~  
 12 ~~biennium)) in the nursing services, food, administrative, and~~  
 13 ~~operational cost centers shall be adjusted for economic trends and~~  
 14 ~~conditions by the change in the implicit price deflator for personal~~  
 15 ~~consumption expenditures index published by the bureau of labor~~  
 16 ~~statistics of the United States department of labor (IPD index). The~~  
 17 ~~period used to measure the IPD increase or decrease to be applied to~~  
 18 ~~these ((first year biennial)) July 1, 1995, rate((s)) components shall~~  
 19 ~~be ((the)) calendar year ((preceding the July 1 commencement of the~~  
 20 ~~state biennium)) 1994.~~

21 (4) ~~((The July 1 rates for the second year of each biennium shall~~  
 22 ~~be adjusted)) July 1, 1996, component rates in the nursing services,~~  
 23 ~~food, administrative, and operational cost centers shall not be cost-~~  
 24 ~~rebased, but shall be the component rates assigned to each nursing~~  
 25 ~~facility in effect on June 30, 1996, adjusted downward or upward for~~  
 26 ~~economic trends and conditions by the change in the nursing home input~~  
 27 ~~price index without capital costs published by the health care~~  
 28 ~~financing administration of the department of health and human~~  
 29 ~~services((7)) HCFA index((, however, any increase shall be multiplied~~  
 30 ~~by one and one half)))]. The period to be used to measure the HCFA~~  
 31 ~~index increase ((to be multiplied by one and one half and applied)) or~~  
 32 ~~decrease to be applied to these ((second year biennial)) June 30, 1996,~~  
 33 ~~component rates shall ((also)) be ((the)) calendar year ((preceding the~~  
 34 ~~July 1 commencement of the state biennium. PROVIDED, However, That in~~  
 35 ~~the event the change in the HCFA index measured over the following~~  
 36 ~~calendar year, the one terminating six months after the start of the~~  
 37 ~~state biennium, is twenty five percent greater or less than the change~~  
 38 ~~in the HCFA index measured over the calendar year preceding~~  
 39 ~~commencement of the state biennium, the department shall use the HCFA~~

~~index increase multiplied by one and one half or decrease in such following calendar year to inflate or decrease nursing facilities' nursing services, food, administrative, and operational rates for July 1 of the second biennial year)) 1994.~~

(5) July 1, 1997, component rates in the nursing services, food, administrative, and operational cost centers shall not be cost-rebased, but shall be the component rates assigned to each nursing facility in effect on June 30, 1997, adjusted downward or upward for economic trends and conditions by the change in the nursing home input price index without capital costs published by the health care financing administration of the department of health and human services (HCFA index), multiplied by a factor of 1.25. The period to be used to measure the HCFA increase or decrease to be applied to these rate components for July 1, 1997, rate setting shall be calendar year 1996.

(6) If either the implicit price deflator (IPD) index or the health care financing administration (HCFA) index specified in this section ceases to be published in the future, the department shall select ((by rule)) and use in its place or their place one or more measures of change from the same or an alternate source or sources ((for)) utilizing the same or comparable time periods specified in this section.

Sec. 100. RCW 74.46.430 and 1993 sp.s. c 13 s 8 are each amended to read as follows:

(1) The department, as provided by this chapter, will determine prospective ~~((cost-related reimbursement))~~ payment rates for services provided to medical care recipients. Each rate so determined shall represent the contractor's maximum compensation within each cost center and for return on investment for each ~~((patient))~~ resident day for such medical care recipient.

(2) ~~((As required,))~~ The department may modify such maximum per ~~((patient))~~ resident day rates, consistent with this chapter, pursuant to the administrative ((review provisions of)) appeals or exception procedure authorized by RCW 74.46.780.

(3) For July 1, 1995, and all following rates, the maximum prospective ((reimbursement)) component payment rates for the nursing services, food, administrative, operational, and property cost centers, and the return on investment (ROI) component rate for each nursing facility shall be established based upon a minimum licensed bed

1 facility occupancy level of (~~eighty-five~~) ninety percent, except for  
2 rate adjustments as provided for in RCW 74.46.460(6).

3 (4) The minimum ninety percent facility occupancy shall be used to  
4 calculate individual rates, to calculate the median cost limits (MCLs)  
5 for the metropolitan statistical area (MSA) and nonmetropolitan  
6 statistical area (non-MSA) peer groups, and to array facilities by  
7 costs in calculating the variable return portion of the return on  
8 investment rate component (ROI).

9 (5) All contractors shall be required to adjust and maintain wages  
10 for all employees to a minimum hourly wage of four dollars and seventy-  
11 six cents per hour beginning January 1, 1988, and five dollars and  
12 fifteen cents per hour beginning January 1, 1989.

13 Sec. 101. RCW 74.46.450 and 1993 sp.s. c 13 s 9 are each amended  
14 to read as follows:

15 (1) Prospective reimbursement rates for a new contractor, as  
16 defined by the department in rule, will be established within sixty  
17 days following receipt by the department of the properly completed  
18 projected budget required by RCW 74.46.670. Such reimbursement rates  
19 will become effective as of the effective date of the contract and  
20 shall remain in effect until ((adjusted or)) the new contractor's rate  
21 in all cost areas can be reset ((as provided in this chapter))  
22 effective July 1st using a cost report of that contractor containing at  
23 least six months' data from the prior calendar year, regardless of  
24 whether reported costs for other contractors for the prior calendar  
25 year in question will be used to rebase their July 1st rates.

26 (2) Such reimbursement rates will be based on (~~the contractor's~~  
27 ~~projected cost of operations and on costs and~~) payment rates of the  
28 prior contractor, if any, or of other contractors in comparable  
29 circumstances.

30 (3) (~~If a properly completed budget is not received at least sixty~~  
31 ~~days prior to the effective date of the contract,)) The department will~~  
32 establish ((preliminary)) a new contractor's initial component rates  
33 based on the ((other)) factors specified in subsections (2) and (4) of  
34 this section. These ((preliminary)) initial rates will remain in  
35 effect until adjusted or reset as provided in this chapter.

36 (4) The department is authorized to develop policies and procedures  
37 in rule (~~to address the computation of rates for the first and second~~  
38 ~~fiscal years of each biennium, including steps necessary to prorate~~

1 ~~rate adjustments for economic trends and conditions as authorized in~~  
 2 ~~RCW 74.46.420, for contractors having less than twelve months of cost~~  
 3 ~~report data for the prior calendar year)) that comply with the policies~~  
 4 ~~and purposes of this chapter to establish factors by which a new~~  
 5 ~~contractor's rate will be set, for example, occupancy level or~~  
 6 ~~proration of rate adjustments for economic trends and conditions as~~  
 7 ~~authorized in RCW 74.46.420. However, a new contractor, whose medicaid~~  
 8 ~~contract was effective in calendar year 1994; and whose nursing~~  
 9 ~~facility occupancy during calendar year 1994 increased by at least five~~  
 10 ~~percent over that of the prior owner, shall have its July 1995 rate for~~  
 11 ~~nursing services, food, administrative, operational, and property cost~~  
 12 ~~centers, and the return on investment (ROI) based upon a minimum~~  
 13 ~~facility occupancy of eighty-five percent.~~

14 Sec. 102. RCW 74.46.460 and 1993 sp.s. c 13 s 10 are each amended  
 15 to read as follows:

16 (1) Each contractor's ~~((reimbursement))~~ nursing services, food,  
 17 administrative, and operational component payment rates will be  
 18 ((determined or)) adjusted for economic trends and conditions  
 19 prospectively at least once during each calendar year, as provided in  
 20 this chapter, to be effective July 1st((+)): PROVIDED, That except for  
 21 the rates of new contractors as defined by the department, a  
 22 ((contractor's)) nursing facility's cost-rebased rate for ((the first  
 23 fiscal year of each biennium)) July 1, 1995, must be established upon  
 24 ((its)) the facility's own ((prior calendar period)) cost report of at  
 25 least six months of adjusted and/or audited cost data from the calendar  
 26 year 1994.

27 (2) Subject to the provisions of subsections (3) through (6) of  
 28 this section, rates may be adjusted ((as determined)) by the department  
 29 at the request of the nursing facility to cover the medicaid share of  
 30 incremental costs necessary to address and take into account variations  
 31 in the distribution of all medicaid and nonmedicaid patient  
 32 classifications or changes in all medicaid or nonmedicaid patient  
 33 characteristics from the prior reporting year, program changes required  
 34 by the department, or changes in staffing levels at a facility required  
 35 by the department. Rates may also be adjusted to cover costs  
 36 associated with placing a nursing home in receivership which costs are  
 37 not covered by the rate of the former contractor, including:  
 38 Compensation of the receiver, reasonable expenses of receivership and

1 transition of control, and costs incurred by the receiver in carrying  
2 out court instructions or rectifying deficiencies found. Rates shall  
3 be adjusted as provided in this section for any capitalized additions  
4 or replacements made as a condition for licensure or certification.  
5 Rates shall be adjusted as provided in this section for capitalized  
6 improvements done under RCW 74.46.465.

7 (3) Except for rate adjustments granted for economic trends and  
8 conditions as authorized in this chapter to be effective each July 1st,  
9 all rate adjustments granted by the department for any other purpose,  
10 including those granted for capitalized additions or replacements or  
11 for staffing, whether made or not made as a condition of licensure or  
12 certification, shall be limited in total amount each fiscal year to the  
13 total current legislative appropriation, if any, specifically made to  
14 fund the medicaid share of such adjustments for the fiscal year.

15 (4) The department is authorized to adopt rules to ensure that  
16 funding granted for additional staffing will be cost-effective in  
17 providing increased quantity and quality of services to nursing  
18 facility residents and to ensure that spending limitations will not be  
19 exceeded.

20 (5) Funds disbursed representing rate adjustments granted under  
21 authority of this section and not spent by the contractor for the  
22 purposes granted are subject to immediate recovery by the department by  
23 means of recoupment from current contract payments or any other means  
24 authorized by law and contractors shall pay interest on such unused or  
25 misused funds at the rate of one percent per month from the date of  
26 disbursal to the date of recovery. If a contractor requests an  
27 administrative review of a department recovery action under rules  
28 established under RCW 74.46.780, such request shall not stay recoupment  
29 from current facility contract payments or other recovery.

30 (6) All rate component adjustments to fund the medicaid share of  
31 nursing facility new construction or refurbishing projects costing in  
32 excess of one million two hundred thousand dollars, or projects  
33 requiring state or federal approval, shall be based upon a minimum  
34 facility occupancy of eighty-five percent for the nursing services,  
35 food, administrative, operational, and property cost centers, and the  
36 return on investment (ROI), during the initial rate period in which the  
37 adjustment is granted, and shall be based upon a minimum facility  
38 occupancy of ninety percent for the nursing services, food,